

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

MARIA SANTOS

V.

AMERICAN MODERN HOME
INSURANCE COMPANY

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CIVIL ACTION NO. _____
(Jury Demanded)

DEFENDANT AMERICAN MODERN HOME INSURANCE COMPANY'S
NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW AMERICAN MODERN HOME INSURANCE COMPANY ("American Modern"), Defendant herein and by and through counsel, hereby serves this Notice of Removal in this action, to remove the above-captioned case to the United States District Court for the Southern District of Texas, Laredo Division, from the District Court of Webb County, Texas and in support thereof would respectfully show as follows:

BACKGROUND

1. On December 15, 2014, Plaintiff, Maria Santos, filed suit against Defendant American Modern in the 406th Judicial District Court of Webb County, Texas, styled as follows: Cause No. 2014-CVF002841-D4; *Maria Santos v. American Modern Home Insurance Company* (the State Court Action), asserting claims for damages sustained to her residence as a result of a hail and wind storm in Webb County, Texas, by virtue of a policy of insurance insuring the subject property.

2. Defendant American Modern was served with this lawsuit on January 28, 2015. Defendant files this Notice of Removal within thirty (30) days after receiving the Plaintiff's Original Petition as required by 28 U.S.C. § 1446(b).

REMOVAL PROCEDURE

3. Except as otherwise expressly provided by Act of Congress, any civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the place where the action is pending.¹ The Laredo Division of the Southern District of Texas is the United States district and division embracing Webb County, Texas, the county where the State Court Action is pending.

4. Plaintiff served Plaintiff's Original Petition and Request for Disclosure (the Petition) on January 28, 2015. Under 28 U.S.C. § 1446(b), American Modern has thirty (30) days from the date of service to file its Notice of Removal. Therefore, this Notice of Removal is timely filed.

5. In addition to a "short and plain statement of the grounds for removal," under § 1446(a), true and correct copies of all process, pleadings and orders in the State Court Action must be filed with the Notice of Removal. Accordingly, American Modern attaches these documents hereto as Exhibit A, and incorporates them herein by reference for all purposes.

¹ See 28 U.S.C. § 1441.

GROUND FOR REMOVAL

6. Under 28 U.S.C. § 1332(a)(1), federal district courts have original jurisdiction over all civil actions in which there is diversity of citizenship and the matter in controversy exceeds \$75,000.00, exclusive of interest and cost. Both conditions are satisfied in this case.

7. First, there is complete diversity of citizenship between the parties. Plaintiff is a citizen of the State of Texas, her residence is located at 1907 Lemonwood Drive, Laredo, Texas 78045. Defendant is an Ohio corporation with its principal place of business located in Amelia, Ohio. *See* Ohio Corporation Profile, attached hereto as Exhibit B. There are no other parties to this lawsuit, so complete diversity exists. Additionally, Plaintiff admits in her Original Petition that the amount in controversy exceeds the sum of \$200,000.00. Thus, the amount in controversy exceeds the \$75,000.00 amount required by 28 U.S.C. § 1332(a).

REMOVAL DOCUMENTS

8. Under 28 U.S.C. § 1446(d), American Modern is providing written notice of the filing of this Notice of Removal to all other counsel of record, and is also filing a copy of this Notice of Removal with the clerk of the 406th Judicial District Court of Webb County, Texas, where Plaintiff commenced this action.

9. American Modern is filing the following items concurrently with this Notice of Removal, as required by Southern District of Texas Local Rule 81:

- a. All executed process in the case, *see* Ex. A;
- b. all pleadings asserting causes of action and all answers to such pleadings, *see* Ex. A;
- c. all orders signed by the state judge, *see* Ex. A;
- d. a copy of the docket sheet in the State Court Action, *see* Ex. A;
- e. an index of matters being filed, *see* Ex. C; and
- f. a list of all counsel of record, *see* Ex. D.

JURY DEMAND


10. Defendant has demanded a jury in the state-court suit and makes a similar jury request along with this Notice of Removal.

CONCLUSION AND PRAYER

11. Based on the foregoing, Defendant requests that this case be removed to the United States District Court for the Southern District of Texas, Laredo Division.

Respectfully submitted,

By:



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ATTORNEYS FOR DEFENDANT
AMERICAN MODERN HOME
INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been sent to all known counsel by email, first class mail, telecopy, hand delivery and/or certified mail, return receipt requested on this the 24th day of February, 2015:

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